

Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased and owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.2010. (This is a GIL).

August 17, 2004

Dear Xxxxx:

This letter is in response to your letter dated May 21, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are requesting a letter of determination regarding our current sales tax filing procedure.

We currently have one location in the state of Illinois. The primary nature of our business is short term furniture rentals. More specifically, we rent furniture short term directly to customers for use in tradeshow, conventions and events. However the bulk of our customers are sub-contractors that use our furniture as part of their service of putting together exhibits, booths, displays and events. In essence these sub-contractors re-rent our furniture to their clients. Two examples of our function are: Sub-Contractor ABC Co. has a call from a client that would like to set up a large conference. ABC Co. then calls us to rent conference tables and chairs for their customer. We deliver the product to their show site, and bill ABC Co. for the product. ABC Co then bills their client for their service, including furniture and materials used. 2. A client calls and wants us to furnish their conference. We deliver and Set-Up the conference tables and chairs, then bill the client direct for the rental of the furniture.

Most of the business occurs inside CITY2. However our location services the entire state of Illinois and the surrounding states. The two methods we report our tax liability are: Form ST-1 to the State of Illinois and Form 7550 to CITY2. When reporting our revenue on form 7550 to CITY2, the entire amount of income produced by our CITY1

district is reported. We deduct the income from areas outside the city and state, and we deduct the amounts that are leased to customers that re-lease the same product. The taxable amount is then taxed at 6%. The second return filed is to the State on form ST-1. We report all the income produced by our CITY1 district on line 1, and then we deduct that same amount on line 2 leaving a zero amount taxable on line 3. On line 12a of Form ST-1 we report all purchases made of furniture we use as our rental product, as well as any un-taxed purchased materials used and consumed during the taxable period. This is taxed at 6.25%.

Our first question would be; is this proper procedure? Second, is the transaction tax paid on form 7550 to CITY2 the same thing as sales tax? Third, if the transaction tax paid to CITY2 is sales tax, do we deduct the income that was already taxed by the city from being taxed by the state? Fourth, from what you can gather of the information above, is all our income taxable by the state with the exception of revenue produced outside the state and revenue produced from customers that re-lease our property? Lastly, is it possible to pay tax on our purchases of our product that we rent/lease instead of paying sales tax from the revenue produced from the renting/leasing of the product?

DEPARTMENT'S RESPONSE:

For general information regarding Retailers' Occupation Tax and Use Tax liabilities for persons who rent or lease the use of tangible personal property to others, see 86 Ill. Adm. Code 130.2010(b). Please note that your reporting of income received from the rental booths and display materials is incorrect. These amounts should not be reported at all on Form ST-1.

You may wish to visit the Departments' internet website to review some of the Departments' publications and (sunshine) letter rulings regarding how Illinois sales taxes apply in leasing situations. For example, you may want to review general information letter ST 03-0011-GIL regarding various lease situations.

For information regarding taxation by CITY2, you will need to contact CITY2 Department of Revenue.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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